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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,715	02/04/2004	Robert Arthur Bollinger	4589-003	4131

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EXAMINER

GRANT, ALVIN J

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,715

Applicant(s)

BOLLINGER, ROBERT ARTHUR

Examiner

Alvin J. Grant

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 118- is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informality:

In line 2, change “substantially “T”” shape” to read, “substantially “T” shape”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-7, 9-15 and 18**, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by Kim 5,579,667.

Referring to claims 1-7 and 9-14, Kim discloses a device for mounting to a workpiece, comprising: an open-ended wrench having a first section and a second section defining an opening therebetween having an opening width (Fig. 4 and Fig. 18C), a first receiver (3b) extending into the first section (9) and along the opening (3c), and a second receiver (3b) extending into the second section and along the opening, a first mount sized to be removably attached to the first section, the first mount having a first extension and a first reducer having a first predetermined width, the first extension sized to fit within the first receiver and position the first reducer into the opening to reduce the opening width by the first predetermined width, and a second mount sized to be

removably attached to the second section, the second mount having a second extension and a second reducer having a second predetermined width, the second extension sized to fit within the second receiver and position the second reducer into the opening to reduce the opening width by the second predetermined width, the sum of the first predetermined width and the second width being less than the opening width; the first reducer (14) and the second reducer (14') are identical; the first receiver; the first receiver is substantially parallel with the second receiver; the first receiver extends into the first member inward from the opening and the second receiver extends into the second section inward from the opening; the first receiver and the second receiver each have substantially T-shape (Fig. 7); magnets mounted within each of the first section and the second section to position the first reducer and the second reducer in the opening (column 4, lines 1-9); the magnets (P) are exposed in the opening; the first mount and the second mount are substantially H-shaped (Fig. 4); the first mount extends around first member sidewalls and the second member extends around second member sidewalls (column 6, lines 36-56 and Fig. 18B) an open adjustable wrench (abstract) comprising: a first section having a first edge and a second section having a second edge, the first edge and the second edge being spaced apart a distance with an opening therebetween having an opening width, a first receiving extending into the first section and extending substantially parallel with the second edge, a second receiving groove extending into the section and extending substantially parallel with the second edge, a first mount having a first section with a first width and a second section, the second section being sized to fit within the first receiving groove such that the first

section is positioned within the opening to reduce the opening width by the first width; and a second mount having a third section with a second width and a fourth section, the fourth section being sized to fit within the second receiving groove such that the third section is positioned within the opening to reduce the opening width by the second width.

Referring to claims 15 and 18, Kim implicitly discloses a of adjusting an open-ended wrench to fit a workpiece, the method comprising the steps of: connecting a first mount to a first section with a first reducer positioned within an opening to reduce the opening to a first width that is less than an original width, removing the first mount from the first section and connecting a second mount to a second section with a second reducer positioned within the opening and reducing the opening to a second width that is less than the first width, and reconnecting the first section with the reducer positioned within the opening and reducing the opening to a third width that is less than the second width (column 7, lines 26-65); and using a magnet within the first section to locate the first reducer within the opening and using a second magnet within the second section to locate the second reducer within the opening.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim. Kim is described above. Kim does not specifically disclose the first and second mounts are substantially C-shaped. It would have been an obvious matter of design choice to have made the first and second mounts to be substantially C-shaped, since applicant has not disclosed that making the mounts substantially C-shaped solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with C-shaped mounts.

Allowable Subject Matter

6. **Claim 16 and 17** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The art of record does not teach or suggest, a work element mounted as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Grant whose telephone number is (571) 272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Alvin J. Grant".

Alvin J Grant
Patent Examiner
Art Unit 3723

ajg